

**STATE OF MICHIGAN
DEPARTMENT OF CONSUMER & INDUSTRY SERVICES
OFFICE OF FINANCIAL AND INSURANCE SERVICES
DIVISION OF FINANCIAL INSTITUTIONS**

Before the Commissioner of Financial and Insurance Services

**In the matter of
Comerica Bank's intent to
establish and operate a branch
bank in Toronto, Ontario,
Canada**

Order No. BT 01-01

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**Issued and entered
this 18th day of June 2001
by Frank M. Fitzgerald
Commissioner**

ORDER Approving Establishment by Comerica Bank of a Canadian Branch

**I
BACKGROUND**

Comerica Bank-Canada, a wholly owned subsidiary of Comerica Bank, was authorized by Canada's Superintendent of Financial Institutions to commence business as a Canadian bank on September 22, 1998. On June 28, 2000, Canada enacted a new law allowing foreign banks to open specialized, commercially focused branches in Canada. On March 14, 2001, the Office of Financial and Insurance Services received a letter from Comerica Bank expressing its intent to establish and operate a branch banking office in Toronto, Ontario, Canada. The branch bank would focus on commercial banking activities and would be established by the purchase and assumption of the assets and liabilities of Comerica Bank-Canada by Comerica Bank and the submission of a branch notification pursuant to section 3711 of the Banking Code of 1999 (Code), MCL 487.11101 *et seq.*

II ISSUE

The principal issue is whether the Commissioner is authorized to approve the purchase of assets and assumption of liabilities of a foreign bank by a state bank.

III ANALYSIS

The Code does not specifically address the purchase and assumption of the assets and liabilities of a foreign bank by a state bank. However, section 2204 of the Code, MCL 487.12204, states, in part:

1. The commissioner may issue declaratory rulings in accordance with the administrative procedures act of 1969, or issue orders on applications by 1 or more banks to exercise powers not specifically authorized by this act that will authorize banks to exercise powers appropriate and necessary to compete with other providers of financial services.
2. In the exercise of the discretion permitted by this section, the commissioner shall consider the ability of banks to exercise any additional power in a safe and sound manner, the authority of depository institutions operating under state or federal law or regulation, the powers of other competing entities providing financial services, and any specific limitations on bank powers contained in this act or in any other law of this state.

Pursuant to section 2204(1) of the Code, the Commissioner may issue an Order authorizing a bank to exercise powers appropriate and necessary to compete with other providers of financial services. In exercising this discretion, the Commissioner is required, pursuant to section 2204(2) to consider:

- a. The ability of the bank to exercise the additional power in a safe and sound manner,

- b. The authority of depository institutions operating in other states or pursuant to federal law or regulations, and
- c. The powers of other competing providers of financial services.

Comerica bank is operated in a safe and sound manner. It is a large regional bank with extensive experience in international banking; it is well-capitalized; the Canadian bank would represent only a very small portion of the assets of Comerica Bank; and further, information obtained through examinations support the proposition that Comerica Bank is operated in a safe and sound manner.

Depository institutions operating pursuant to the authority of other states or federal law and regulations may engage in this type of transaction. While the National bank Act does not grant specific authority to the Comptroller of the Currency to approve transactions such as this, the OCC could effectuate such a transaction by downgrading the bank to a branch. Alternatively, the OCC could approve the liquidation of the bank and the simultaneous establishment of a new branch. Either transaction would accomplish the objective of changing the structure of Comerica Bank - Canada to a branch of Comerica Bank.

Further, Ohio savings bank law authorizes an Ohio savings bank to merge with a foreign savings bank. California banking law authorizes a California state-chartered bank to merge with a bank chartered in any jurisdiction. These facts demonstrate that depository institutions operating pursuant to federal law or the laws of other states allow a transaction such as the one proposed by Comerica Bank.

Finally, it is commonly known that that numerous financial services companies have international operations in Canada and that these businesses conduct their activities in direct competition with Comerica Bank.

In Conclusion, there are no specific limitations on bank powers contained in the Code or other laws of this state that would prohibit the proposed transaction.

IV ORDER

Therefore, it is **ORDERED** that Comerica Bank is authorized to execute a purchase and assumption of its wholly owned subsidiary, Comerica Bank-Canada, and to establish a branch in Toronto, Ontario, Canada.



Frank M. Fitzgerald
Commissioner